

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ESAW LAMPKIN, #1912325	§	
VS.	§	CIVIL ACTION NO. 6:15cv497
BRANDON T. WINN, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Esaw Lampkin, an inmate confined in the Texas prison system, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the complaint should be dismissed. The Plaintiff has objections.

The Plaintiff is complaining about his Gregg County conviction for driving while intoxicated. His conviction is on appeal. Magistrate Judge Love correctly explained that a civil rights lawsuit is not the proper vehicle for challenging the conviction in light of *Heck v. Humphrey*, 512 U.S. 477 (1994). He also correctly explained that the prosecutor is immune from liability and that the Plaintiff's attorneys are not proper defendants in a § 1983 lawsuit. The Plaintiff's attempt to salvage his claims against his attorneys by alleging a conspiracy is conclusory.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the Plaintiff are

without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #11) is **ADOPTED**. It is further

ORDERED that the civil rights complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b). It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 16th day of July, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE